

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street  
Chicago, Illinois 60604

September 23, 2021

FRANK H. EASTERBROOK  
Circuit Judge\*

Nos. 07-21-90065 to 90069

IN RE COMPLAINTS AGAINST FIVE JUDGES

MEMORANDUM AND ORDER

Complainant accuses five appellate judges of racial discrimination.

The only stated basis (the complaints are materially identical) is that the judges participated in decisions that affirmed, or dismissed appeals from, decisions of the district court that complainant also calls discriminatory. (Complaints against judges who participated in the district court were dismissed last June.) Essentially the entirety of the complaint against each judge is this language: “[The judge] is discriminating against me I’m getting treated the same way the job’s doing me the court is doing the same thing, Discriminating against me. There sticking by there Judge’s[.]”

Any complaint that is “directly related to the merits of a decision or procedural ruling” must be dismissed. 28 U.S.C. §352(b)(1)(A)(ii). See also Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. “Any allegation that calls into question the correctness of an official action of a judge ... is merits related.” Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 145 (2006). The allegations of these complaints fit that description. Moreover, complainant does not offer any reason to believe that any of the five judges would have made a different ruling had complainant been of a different race. An adverse decision differs from racial discrimination.

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\* Assigned to these complaints under 28 U.S.C. §351(c) and Rule 25(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

A document attached to some of the complaints appears to assert that two appeals, which the court dismissed as late, should have been heard on the merits because complainant filed a timely request for reconsideration in the district court, extending the deadline for appeal. I have reviewed the docket sheets in these appeals, and I cannot locate such an argument from complainant before the appeals were dismissed. The appellee in those two cases filed a memorandum contending that the document complainant had filed in the district court was a request for counsel on appeal rather than for reconsideration of the district court's substantive decision. At all events, the decision to dismiss these appeals for want of jurisdiction was "directly related to the merits of a decision or procedural ruling". 28 U.S.C. §352(b)(1)(A)(ii). Complainant's proper response, if he believed that the judges erred, would have been to file a petition for rehearing—which he did not do—rather than a complaint that the judges engaged in misconduct.

The complaints are dismissed under 28 U.S.C. 352(b)(1)(A)(ii). Complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rules 11(g)(3) and 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. 28 U.S.C. §352(c). Any petition for review that complainant elects to file must be received in the clerk's office of the United States Court of Appeals for the Seventh Circuit within 42 days of the date of this order. One petition for review may cover all five complaints (as this memorandum and order has done); duplication is not necessary.